

Interim Decision #2111

MATTER OF WONG
In Deportation Proceedings
A-15999391

Decided by Board December 15, 1971

- (1) A motion to suppress evidence as illegally obtained must be supported by specific and detailed statements based on personal knowledge and must set forth a prima facie case of illegality, enumerating the evidence alleged to have been illegally obtained. [Cf. *Matter of Tang*, Interim Decision No. 2080]
- (2) Where alienage has been established in deportation proceedings by evidence in possession of the Service before the alien's arrest, the burden is upon the alien under section 291 of the Immigration and Nationality Act to establish the nature of his entry or be presumed to be in the United States in violation of law.

CHARGE:

Order: Act of 1952—Section 241(a)(2) [8 U.S.C. 1251(a)(2)]—Nonimmigrant crewman—remained longer.

ON BEHALF OF RESPONDENT:
Peter Zimmerman, Esquire
100 State Street
Boston, Massachusetts 02109

ON BEHALF OF SERVICE:
Irving A. Appleman
Appellate Trial Attorney

Respondent appeals from the special inquiry officer's order requiring his deportation. The appeal will be dismissed; voluntary departure will be granted.

The Service claims respondent was admitted as a nonimmigrant crewman on or about July 7, 1968, that he was authorized to remain for not longer than 29 days, and that he remained without authority. Respondent refused to testify on the claim of privilege, although he admitted that he had not received permission to stay in the United States (pp. 9-10).

The special inquiry officer found the charge supported primarily on the basis of the information contained in a crewman's landing permit which shows the admission of Ka Wong, a native and national of China on July 7, 1968 at New York City (Ex. 4). The